

**IN THE CIRCUIT COURT OF HARRISON COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT**

SKAGGS BUILDING SOLUTIONS, LLC

PLAINTIFF

V.

FILED
FEB 01 2019
CONNIE LADNER
CIRCUIT CLERK
BY: Carrie E. Smith D.C. Cause No: A2401-2019-29

**ENCOMPASS DEVELOP, DESIGN
& CONSTRUCT, LLC and GULF COAST
STUDENT HOUSING LLC**

DEFENDANT

COMPLAINT

COMES NOW Plaintiff Skaggs Building Solutions, LLC, by and through its counsel of record, William Alex Brady, II and Brady Law Firm, PLLC, and files this Complaint against Defendant Encompass Develop, Design & Construct, LLC and Gulf Coast Student Housing, LLC, and in support thereof would state:

I. PARTIES/JURISDICTION

1. Plaintiff Skaggs Building Solutions, LLC is a Mississippi limited liability company with its principle place of business located in the First Judicial District of Harrison County, Mississippi. Skaggs may be served with process through its counsel of record, William Alex Brady, II and Brady Law Firm, PLLC at 600 E. Railroad, Suite A; Long Beach, Mississippi 39560.

2. Defendant Encompass Develop, Design & Construct, LLC is a Kentucky limited liability company. Encompass may be served with process through its registered agent, National Registered Agents, Inc. at 645 Lakeland East Drive, Suite 101; Flowood, Mississippi 39232.

3. Defendant Gulf Coast Student Housing LLC is a Mississippi limited liability company with its principle place of business located at 111 Main Street, Suite E; Bay Saint Louis, Mississippi 39520. Gulf Coast Student Housing, LLC may be served with process through its

registered agent: Julien K. Byrne III, 311 East Second Street, Pass Christian, Mississippi 39571.

4. The lawsuit involves a contract to provide goods and services at property located in the First Judicial District of Harrison County, Mississippi. Jurisdiction and venue are proper before this Court.

II. FACTS

1. Plaintiff Skaggs Building Solutions, LLC (“Skaggs”) is engaged in the business of providing construction goods and services.

2. Defendant Gulf Coast Student Housing LLC (“Defendant GCSH”) owns property located at 522 E. Railroad, Long Beach, Mississippi 39560. At some time prior to June 1, 2018, Defendant GCSH hired Defendant Encompass Develop, Design and Construct, LLC (“Defendant Encompass”) to perform work as a general contractor on a student housing project at the Long Beach Property.

3. On or about July 9, 2018 Plaintiff Skaggs entered into a contractual agreement with Defendant Encompass identified as, “AGREEMENT BETWEEN THE CONSTRUCTION MANAGER AND THE SUBCONTRACTOR (“Agreement”). See Exhibit A.

4. The Agreement provided that Plaintiff Skaggs would perform construction services and provide various goods on the student housing project on the property owned by Defendant GCSH, including the installation of doors and hardware, countertops, cabinets, grab bars, fire extinguishers and toilet accessories. The original contract amount was \$61,384.10. See Exhibit A. After the Agreement was entered into, additional work was added, including the installation of attic access panels, plywood to cat walk areas, window replacement, site cleaning and dirt work. This additional work was added through eight separate change orders. See Exhibit B.

5. On or about September 28, 2018 Plaintiff Skaggs submitted an Application for Payment pursuant to the terms of the Agreement. The Application for Payment requested payment in the amount of \$71,192.75. See Exhibit B.

6. Subsequently, Plaintiff Skaggs continued to request payment from Encompass agents. Plaintiff Skaggs was informed on more than one occasion that Defendant Encompass had not been paid by the owner, Defendant GCSH, and that Plaintiff Skaggs was not entitled to payment for its work until Defendant Encompass was paid for the work by Defendant GCSH. On or about December 7, 2018 Skaggs was informed by Defendant GCSH that Encompass had in fact been paid for all work performed by Plaintiff Skaggs. On or about December 21, 2018 Plaintiff sent a demand for payment to both Defendants and informed both Defendants that legal action would be taken if payment was not received. See Exhibit C.

7. Defendant Encompass and Defendant GCSH have refused to pay Plaintiff Skaggs the amounts owed for work performed. Plaintiff Skaggs performed all work in a workmanlike manner and payment is past due.

III. CLAIMS AGAINST ENCOMPASS DEVELOP, DESIGN & CONSTRUCT, LCC

A. BREACH OF CONTRACT

1. Plaintiff Skaggs and Defendant Encompass entered into a legal and binding contractual agreement wherein Plaintiff Skaggs promised to provide goods and services and Defendant Encompass promised to pay Plaintiff Skaggs for the work performed.

2. Plaintiff Skaggs performed all work in a workmanlike manner and submitted a request for payment in a timely fashion pursuant to the terms of the Agreement.

3. Defendant Encompass has failed and refused to pay funds owed to Plaintiff Skaggs for the work performed and has breached the contractual agreement between the parties.

4. Defendant Encompass must be held liable for all damages suffered by Plaintiff Skaggs as a result of the breach of contract in an amount to be established at the time of trial but known to exceed \$71,192.75.

B. BREACH OF THE DUTY OF GOOD FAITH AND FAIR DEALING

1. Implied in every contractual agreement entered into in Mississippi is a covenant that the parties will deal fairly and in good faith.

2. Plaintiff Skaggs performed all work required by the contractual agreement in a timely and workmanlike manner.

3. Defendant Encompass has refused to pay Plaintiff Skaggs for the work performed, despite having allegedly been paid by Defendant GCSH for the work performed by Plaintiff Skaggs.

4. Defendant Encompass has failed to act fairly and in good faith by failing to pay Plaintiff Skaggs for work performed and by continuing to misrepresent the nature of payment by the owner.

5. Defendant Encompass must be held liable for its breach of good faith and fair dealing in an amount to be established at the time of trial but known to exceed \$71,192.75.

IV. CLAIMS AGAINST DEFENDANT GULF COAST STUDENT HOUSING LLC

A. QUANTIUM MERIUIT

1. Plaintiff Skaggs provided goods and services at property owned by Defendant GCSH for the benefit of Defendant GCSH. The goods and services provided were rendered under the reasonable expectation that Plaintiff Skaggs would be paid for the work and Defendant GCSH knew the goods and services were being provided by Plaintiff Skaggs with the expectation of payment.

2. Defendant GCSH should be ordered to pay the *quantum meriut* measure of damages for the value of the goods and services received in an amount to be proven at the time of trial but known to exceed \$71,192.75.

B. UNJUST ENRICHMENT

1. Plaintiff Skaggs entered into a contractual agreement with Defendant Encompass to provide goods and services on property owned by Defendant GCSH. Plaintiff Skaggs assisted in the construction of student housing on the property and provided the goods and services it promised to provide in the Agreement. Plaintiff Skaggs has not been paid at least \$71,192.75 for work it performed.

2. Defendant GCSH did not enter into a written contractual agreement with Plaintiff Skaggs; however, Defendant GCSH received a benefit from the goods and services provided by Plaintiff Skaggs.

3. Defendant GCSH is in possession of goods provided by Plaintiff Skaggs and has received valuable services which were provided by Plaintiff Skaggs. Defendant GCSH should not, in good conscience, be allowed to retain the goods and the benefit from the services without payment to Plaintiff Skaggs.

4. Plaintiff Skaggs is entitled to recover a judgment from Defendant GCSH as a result of its unjust enrichment, in an amount to be proven at the time of trial but known to exceed \$71,192.75.

WHEREFORE, PREMISES CONSIDERED, PLAINTIFF Skaggs Building Solutions requests this Court enter a Judgment in its favor as follows:

1. Finding in favor of Plaintiff and against Defendant Encompass for breach of contract and awarding damages in an amount to be proven at the time of trial;

2. Finding in favor of Plaintiff Skaggs and against Defendant Encompass for breach of the implied duty of good faith and fair dealing and awarding damages in an amount to be proven at the time of trial;

3. Finding in favor of Plaintiff and against Defendant GCSH and awarding a *quantum meruit* measure of damages in an amount to be proven at the time of trial;

4. Finding in favor of Plaintiff and against Defendant GCSH for its unjust enrichment and awarding damages in an amount to be proven at trial;

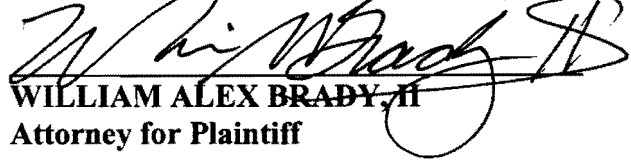
5. Awarding Plaintiff Skaggs attorney's fees and costs incurred in bringing this action;

6. Awarding Plaintiff other costs and expenses incurred in bringing this action, including expert witness fees and costs;

7. Awarding such other and further relief as the Court deems just and equitable.

RESPECTFULLY SUBMITTED this the 15th day of February, 2019.

SKAGGS BUILDING SOLUTIONS, LLC


WILLIAM ALEX BRADY, II
Attorney for Plaintiff

William Alex Brady, II (MSB #101418)
BRADY LAW FIRM, PLLC
600 E. Railroad, Suite A
Long Beach, MS 39560
Fax: (228) 575-4474
Tel.: (228) 575-4472
alexbrady@alexbradylaw.com